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Vol. III. No. 12

Trivandrum, Wednesday, 5th March 1952/22nd Kumbham 1127.

NOTIFICATION.

No. LA. 4-183|52.

The following Bill together with the Statement of Objects and Reasons is published as ordered by the Speaker under Rule 33 of the Legislative Assembly Rules (as modified and adapted by the Speaker under Article 238, clause (11) of the Constitution of India).

Legislature Secretariat,
Trivandrum,
5th March 1952.

V. Krishnamoorthi,
Secretary,
Legislative Assembly.

THE TRAVANCORE-COCHIN PUBLIC SAFETY MEASURES ACT (AMENDMENT) BILL.

Preamble.

Whereas it is deemed necessary to amend the Travancore-Cochin Public Safety Measures Act, 1950 (Act V of 1950), for the purposes hereinafter appearing;

(1)

GOVERNMENT OF INDIA, MINISTRY OF LAW,

NOTIFICATION.

New Delhi, the 4th March 1952.

S. R. O.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 12 of the Representation of the People Act, 1951 (XLIII of 1951), the President is pleased to call upon the elected members of the Legislative Assemblies of Part A States and Part B States other than the State of Jammu and Kashmir, to elect members to the Council of States in accordance with the provisions of the said Act and of the rules and orders made thereunder before the 1st April, 1952, which is the date appointed in that behalf by the Election Commission.

(F. 24 (1)| 52-C-I)

K. V. K. SUNDARAM,
Secretary.

(2)

GOVERNMENT OF INDIA, MINISTRY OF LAW,

NOTIFICATION

New Delhi, the 4th March, 1952.

S. R. O.—In exercise of the powers conferred by sub-section (2) of Section 39 of the Representation of the People Act, 1951 (XLIII of 1951), the Central Government hereby appoints for the elections to the Council of States to be held in pursuance of notifications No. F. 24 (1)|52-C-I and F. 24 (1)|52-C-II, dated the 4th March, 1952,—

(a) the 13th March, 1952, as the last date for making nominetions,

(b) the 14th March, 1952, as the date for the scrutiny of nominations,

(c) the 17th March, 1952, as the last date for the withdrawel of candidatures, and

(d) the 27th March, 1952, as the date on which a poll shall, if necessary, be taken.

(F. 24 (1)|52-C-III)

K. V. K. SUNDARAM,
Secretary.

Printed and Published by the S. G. P. at the Government Central Press, Trivandrum, 1952.

REGISTERED No. M. 4691.

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TRIVANDRUM WEDNESDAY 5th MARCH 1952/22nd KUMBHAM 1127

NOTIFICATION.

No. EL1-559|52|Law.

Notifications No. F. 24 (1)|52-C. 1 and F. 24 (1)|52-C-III dated the 4th March, 1952 relating to elections to Council of States, issued by the Ministry of Law, Government of India and published in Part II Section 3 of the Gazette of India Extraordinary dated the 4th March, 1952 are republished for general information.

Government Secretariat,
Law Department,
|Election Section,
Trivandrum. 5th March 1952.

By order of His Highness
the Raj Pramukh,

N. S. RADHAKRISHNA SARMA,
Secretary to Government.

It is hereby enacted as follows :—

1. (1) This Act may be called tha Travancore-Cochin Public Safety Measures (Amendment) Act, 1952.

Short title and commencement.

(2) It shall come into force at once.

2. In sub-section (1) of Section 23 of the Travancore-Cochin Public Safety Measures Act, 1950 (Act V of 1950), hereinafter referred to as the said Act, the words "or legal process" shall be omitted.

Amendment of Section 23 Act V of 1950.

3. After Section 23 of the said Act, the following sections shall be inserted, namely :—

Insertion of new sections after Section 23 in Act V of 1950.

"23A. (1) A declaration notified under Section 23 in respect of any association shall specify the grounds on which it is made, the reasons for making it, and such particulars, if any, as may have a bearing on the necessity therefor.

Procedure for declaring association to be unlawful.

(2) Nothing in sub-section (1) shall require the Government to disclose any facts which they consider to be against public interest to disclose.

(3) As soon as may be after a declaration is notified under Section 23 in respect of any association, a copy thereof shall be served on the Secretary or other officer or person concerned with the management of the affairs of the association, and shall also be published in two daily newspapers having circulation in the place where the registered office of the association is situate or, where there is no registered office, in the place in which the activities of tha association are carried on.

(4) A copy of the declaration to be served under subsection (3) shall be sent to a Magistrate who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898 :

Provided that, if service in such manner cannot by exercise of due diligence he effected, the serving officer shall affix a copy thereof to some conspicuous part of the premises where the registered office of the association is situate, or where there is no registered office, at the place where it carries on or where it is last known to have carried on its activities, and thereupon the declaration shall be deemed to have been duly served.

23 B. (1) Any person aggrieved by a declaration notified under Section 23 may, within sixty days from the date on which the declaration is notified, apply to the High Court to set aside the declaration, and the High Court shall, after issuing notice to the Government, decide whether the association declared unlawful had interfered with or had for its object interference with the administration of law or with the maintenance of law and order or whether it did constitute a danger to the public peace or whether it had resisted or encouraged or incited resistance to any law or not.

Application to High Court to set aside declaration under Section 23 and order of Court thereon.

(2) Every application under sub-section (1) shall be heard and determined by a Division Bench.

(3) If it appears to the Court on an application under sub-section (1) that the association in respect of which a declaration under Section 23 has been notified had not interfered with or had not for its object interference with the administration of law or with the maintenance of law and order or that it did not constitute a danger to the public peace or that it did not resist or encourage or incite resistance to any law, the Court shall set aside the declaration."

4. In Section 25 of the said Act, after sub-section (2) the following sub-sections shall be inserted, namely:-

Amendment of Section 25, Act V of 1950.

"(2-A) Any person aggrieved by a notification issued under sub-section (1) in respect of any place may, within thirty days from the date on which such notification is publised in the Gazette, apply to the District Judge of the District in which such place is situated, for a declaration, that the place has not been used for the purposes of any unlawful association, and if such District, Judge makes such declaration the Government shall cancel the notification in respect of the place.

(2-B) In disposing of an application under sub-section (2-A), the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims, so far as it can be made to apply, and the decision of the District Judge shall be final."

5. (1) The Travancore-Cochin Public Safety Measures (Amendment) Ordinance, 1951 (VI of 1951), is hereby repealed.

Repeal and saving.

(2) Any order made, action taken or thing done in the exercise of any power conferred by the Ordinance repealed by sub-section (1) shall, for all purposes, be deemed to have been made, taken or done in the exercise of the powers conferred by this Act, as if this Act were in force on the day on which such order was made, action was taken or thing was done.

(3) Any legal proceeding pending before the High Court or a District Court at the commencement of this Act may be continued and in relation to such proceeding the provisions of Sections 23B and 25 of the said Act as amended by this Act shall apply.

Statement of Objects and Reasons.

Sections 23 to 30 of the Travancore-Cochin Public Safety Measures Act, 1950 (V of 1950) relate to unlawful associations and are similar to the corresponding provisions of the Indian Criminal Law Amendment Act, XIV of 1908. In its application to the State of Madras, the Indian Act was amended by Madras Act XI of 1950 which provided for the constitution of an Advisory Board (similar to the Advisory Board for reviewing cases of detention) to review the orders of Government declaring associations to be unlawful. The validity of the Indian Criminal Law Amendment Act as amended by Madras Act, XI of 1950 came up for decision before a Full Bench of the Madras High Court in V. G. Row V. the State of Madras reported in A. I. R. 1951 Madras, 147. In that case it was held that the Act under reference contravened the provisions of Article 19 of the Constitution and was therefore void. In declaring that Act void, the Court *Interalia* made the following observations:—

1. There is no adequate and just remedy provided for the aggrieved person to challenge the correctness of the declaration.

2. There is no provision for service of notice of the grounds on which the declaration is made on the Secretary or other office bearer of the association.

3. The substitution of an Advisory Board for the ordinary Court is not justified.

4. The constitution of an Advisory Board does not warrant a fair trial.

5. There is no right conferred on aggrieved persons to be heard.

Since the Travancore-Cochin Public Safety Measures Act contained provisions similar to those which have been declared void, it was considered necessary to amend that Act by making suitable provisions therein which will meet the objections raised by the Madras High Court in regard to the procedure to be followed in declaring associations to be unlawful. Accordingly, the Travancore-Cochin Public Safety Measures (Amendment) Ordinance, 1951 was promulgated by His Highness the Rajpramukh. The Ordinance provides that the declaration will specify the grounds on which it is made, and also the reasons for making it. A copy of the declaration will be served on the Secretary or other office bearer of the association and will also

be published in two daily newspapers. Any person aggrieved by the declaration will have the right to apply to the High Court to set aside the same. In the case of associations which have been declared unlawful before the commencement of the Ordinance, it is made obligatory on the part of the Government to issue a supplementary notification specifying the grounds, reasons, etc. for making the declaration and also to serve on the Secretary or other office bearer of the association a copy of the notification and publish the same in two local dailies. The aggrieved person will have the right to apply to the High Court to set aside the declaration of the Government. All places notified under Section 25 of the Act before the commencement of the Ordinance will be deemed to be places notified under that Section as amended by the Ordinance, that is to say, the persons aggrieved by the notification will have a right to apply to the District Court for a declaration that the place in question is a place which has not been used for the purpose of an unlawful association. This right is to be exercised within thirty days from the commencement of the Ordinance.

The present Bill is intended to replace the above Ordinance by an Act of the Legislature.

C. KESAVAN.

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